

After Recording, Return to:
WHITE BEAR ANKELE TANAKA & WALDRON
2154 East Commons Avenue, Suite 2000
Centennial, Colorado 80122

**SECOND
AMENDED AND RESTATED
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
SABELL METROPOLITAN DISTRICT**

CONCERNING THE IMPOSITION OF AN OPERATIONS FEE

WHEREAS, the Sabell Metropolitan District (the “**District**”) was formed pursuant to §§ 32-1-101, *et seq.*, C.R.S., as amended (the “**Special District Act**”), by order of the District Court for Jefferson County (“**County**”), Colorado, and after approval of the District’s eligible electors at an election; and

WHEREAS, pursuant to § 32-1-1001(1)(h), C.R.S., the Board of Directors of the District (the “**Board**”) shall have the management, control and supervision of all the business and affairs of the District; and

WHEREAS, the Board has determined it to be in the best interests of the District, and the property owners, taxpayers, and residents of the District, to acquire, construct, operate and maintain certain amenities and facilities benefitting property and inhabitants within the District, which amenities and facilities generally include park and recreation, open space, and landscaping improvements, facilities, appurtenances and rights-of-way (collectively, the “**Facilities**”); and

WHEREAS, the Board has determined it to be in the best interests of the District, and the property owners, taxpayers, and residents of the District, to provide certain services to property and inhabitants within the boundaries of the District, including without limitation, landscape maintenance, snow removal, trash and recycling services, and covenant enforcement (collectively, the “**Services**”); and

WHEREAS, pursuant to § 32-1-1001(1)(j)(I), C.R.S., the District is authorized to fix and impose fees, rates, tolls, penalties and charges for services or facilities furnished by the District which, until paid, shall constitute a perpetual lien on and against the property served; and

WHEREAS, the District incurs certain direct and indirect costs associated with the repair, replacement, improvement, reconstruction operation and maintenance of the Facilities, as necessary, inclusive of the costs of utilities and capital replacement costs, in order that the Facilities may be properly provided and maintained, and the District also incurs certain direct and indirect costs associated with the provision of the Services in order that the Services may be properly provided, the property within the District maintained, and that the health, safety and welfare of the District and its inhabitants may be safeguarded (collectively, the “**Operations Costs**”); and

WHEREAS, the estimated Operations Costs for the District in 2020 is approximately \$50,000; and

WHEREAS, the District estimates that in 2020 its general fund mill levy will generate a total of \$21; and

WHEREAS, the revenue from the District's general fund mill levy is insufficient to pay the Operations Costs; and

WHEREAS, based on the Operations Fee Calculation prepared by the District's accountant, attached hereto as **Exhibit B**, the board of directors of the District has determined that the fees set forth in **Exhibit A** are reasonable; and

WHEREAS, the establishment and continuation of a fair and equitable fee (the "**Operations Fee**") to provide a source of funding to pay for the Operations Costs, which Operations Costs are generally attributable to the persons and/or properties subject to such Operations Fees, is necessary to provide for the common good and for the prosperity and general welfare of the District and its inhabitants and for the orderly and uniform administration of the District's affairs; and

WHEREAS, the District finds that the Operations Fee, as set forth in this Resolution, is reasonably related to the overall cost of providing the Facilities and Services and paying the Operations Costs, and that imposition thereof is necessary and appropriate; and

WHEREAS, on November 18, 2020, the Board adopted an Amended and Restated Resolution of the Board of Directors of Sabell Metropolitan District Concerning the Imposition of an Operations Fee, which was recorded in the real property records of the Jefferson County Clerk and Recorder's Office on November 23, 2020, at Reception No. 2020155067 (the "**Prior Fee Resolution**"), and the Board desires to adopt this Resolution to amend and restate the Prior Fee Resolution in its entirety. Any fees, rates, tolls, penalties or charges due under the Prior Fee Resolution, to the extent outstanding and unpaid, shall remain in effect until fully paid and shall not be eliminated hereby.

NOW, THEREFORE, be it resolved by the Board as follows:

1. **DEFINITIONS.** Except as otherwise expressly provided or where the context indicates otherwise, the following capitalized terms shall have the respective meanings set forth below:

"**Apartment Unit**" means a unit within an apartment building which unit is held for lease or rent for residential occupancy and for which a final certificate of occupancy has been issued.

"**District Boundaries**" means the legal boundaries of the District, as the same are established and amended from time to time pursuant to §§32-1-101, *et seq.*, C.R.S., as more particularly set forth in the map and legal description attached hereto as **Exhibit C** and incorporated herein by this reference.

“**Due Date**” means the date by which the Operations Fee is due, which Due Date is reflected on the Schedule of Fees.

“**End User**” means any third-party homeowner or tenant of any homeowner occupying or intending to occupy a Residential Unit. End User specifically excludes a tenant occupying an Apartment Unit.

“**Fee Schedule**” or “**Schedule of Fees**” means the schedule of fees set forth in **Exhibit A**, attached hereto and incorporated herein by this reference, until and unless otherwise amended and/or repealed.

“**Lot**” means each parcel of land established by a recorded final subdivision plat and which is located within the District Boundaries.

“**Residential Unit**” means each residential dwelling unit (including, without limitation, condominiums, townhomes, and any other attached dwelling unit and detached single family dwelling units) located within the District Boundaries which has been Transferred to an End User.

“**Transfer**” or “**Transferred**” shall include a sale, conveyance or transfer by deed, instrument, writing, lease or any other documents or otherwise by which real property is sold, granted, let, assigned, transferred, exchanged or otherwise vested in a tenant, tenants, purchaser or purchasers.

2. OPERATIONS FEE.

a. The Board has determined, and does hereby determine, that it is in the best interests of the District and its respective residents and property owners to impose, and does hereby impose an Operations Fee to fund the Operations Costs. The Operations Fee is hereby established and imposed in an amount as set forth by the District from time to time pursuant to a “Fee Schedule” and shall constitute the rate in effect until such schedule is amended or repealed. The initial Fee Schedule is set forth in **Exhibit A**, attached hereto and incorporated herein by this reference. The Operations Fee shall consist of a recurring payment (the “**Recurring Payment**”) and a separate payment imposed on transfers of a Residential Unit (the “**Transfer Payment**”), which together shall comprise the Operations Fee.

b. The Transfer Payment shall be imposed on all Transfers of a Residential Unit to an End User. The Transfer Payment shall not apply to any of the following, except to the extent the District determines that such exception is being undertaken for the purpose of improperly avoiding the Operations Fee:

i. Any Transfer wherein the United States, or any agency or instrumentality thereof, the State of Colorado, any county, city and county,

municipality, district or other political subdivisions of this State, is either the grantor or the grantee.

ii. Any Transfer by document, decree or agreement partitioning, terminating or evidencing termination of a joint tenancy, tenancy in common or other co-ownership; however, if additional consideration or value is paid in connection with such partition or termination the Transfer Payment shall apply and be based upon such additional consideration.

iii. Any Transfer of title or change of interest in real property by reason of death, pursuant to a will, the law of descent and distribution, or otherwise.

iv. Any Transfer made and delivered without consideration for the purpose of: confirming, correcting, modifying or supplementing a Transfer previously made; making minor boundary adjustments; removing clouds of title; or granting easements, rights-of-way or licenses.

v. Any decree or order of a court of record quieting, determining or resting title, except for a decree of foreclosure.

vi. Transfers to secure a debt or other obligation, or releases other than by foreclosure, which is security for a debt or other obligation.

vii. Transfers pursuant to a decree of separation or divorce.

c. The Board has determined, and does hereby determine, that the Operations Fee is reasonably related to the overall cost of providing the Facilities and Services, and is imposed on those who are reasonably likely to benefit from or use the Facilities and Services.

d. The revenues generated by the Operations Fee will be accounted for separately from other revenues of the District. The Operations Fee revenue will be used solely for the purpose of paying Operations Costs, and may not be used by the District to pay for general administrative costs of the District.

3. LATE FEES AND INTEREST. Pursuant to § 29-1-1102(3), C.R.S., any Operations Fee not paid in full within fifteen (15) days after the scheduled due date will be assessed a late fee in the amount of Fifteen Dollars (\$15.00) or up to five percent (5%) per month, or fraction thereof, not to exceed a total of twenty-five percent (25%) of the amount due. Interest will also accrue on any outstanding Operations Fees, exclusive of assessed late fees, penalties, interest and any other costs of collection, specially including, but not limited, to attorney fees, at the rate of 18% per annum, pursuant to § 29-1-1102(7), C.R.S. The District may institute such remedies and collection procedures as authorized under Colorado law, including, but not limited to, foreclosure of its perpetual lien. The defaulting property owner shall pay all fees and costs, specifically including, but not limited to, attorneys' fees and costs and costs

associated with the collection of delinquent fees, incurred by the District and/or its consultants in connection with the foregoing.

4. PAYMENT. Payment for all fees, rates, tolls, penalties, charges, interest and attorney fees shall be made by check or equivalent form acceptable to the District, made payable to “Sabell Metropolitan District” and sent to the address indicated on the Fee Schedule. The District may change the payment address from time to time and such change shall not require an amendment to this Resolution.

5. LIEN. The fees imposed hereunder, together with any and all late fees, interest, penalties and costs of collection, shall, until paid, constitute a statutory, perpetual lien on and against the property served, and any such lien may be foreclosed in the manner provided by the laws of the State of Colorado for the foreclosure of mechanic’s liens, pursuant to § 32-1-1001(1)(j)(I), C.R.S. Said lien may be foreclosed at such time as the District, in its sole discretion, may determine. The lien shall be perpetual in nature (as defined by the laws of the State of Colorado) on the property and shall run with the land. This Resolution shall be recorded in the offices of the Clerk and Recorder of the County, Colorado.

6. SEVERABILITY. If any portion of this Resolution is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Resolution, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Resolution a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

7. THE PROPERTY. This Resolution shall apply to all property within the District’s boundaries, including, but not limited to, the property set forth in **Exhibit C**, attached hereto and incorporated herein by this reference, and any additional property included into the District after the date of this Resolution.

8. EFFECTIVE DATE. This Resolution shall become effective March 26, 2021.

[Remainder of Page Intentionally Left Blank. Signature Page to Follow.]

ADOPTED this 26th day of March, 2021.

SABELL METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado



Matt Cavanaugh (Mar 26, 2021 11:25 MDT)

Officer of the District

ATTEST:



Guillaume Pouchot (Mar 26, 2021 10:25 MDT)

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys At Law



General Counsel to the District

Signature page to Second Amended and Restated Resolution Concerning the Imposition of an Operations Fee

EXHIBIT A

**SABELL METROPOLITAN DISTRICT
(to be known as SABELL METROPOLITAN DISTRICT)**

**Schedule of Fees
Effective March 26, 2021**

Schedule of Fees		
Fee Type	Classifications	Rate
Operations Fee – Recurring Payment	Apartment Unit	N/A
	Residential Unit	\$360 annually, collected annually*
	Vacant Lot	N/A
The Due Date for each Operations Fee – Recurring Payment is January 1 st .		
Operations Fee – Payment Due Upon a Transfer	Apartment Unit	N/A
	Residential Unit	\$600 per Transfer
	Vacant Lot	N/A
The Due Date for each Operations Fee – Payment Due Upon Transfer is the date upon which the Transfer occurs.		

*Payable quarterly by notice to the District Manager.

PAYMENTS: Payment for each fee shall be made payable to the Sabell Metropolitan District and sent to the following address for receipt by the Due Date:

Sabell Metropolitan District
c/o CliftonLarsonAllen LLP
8390 East Crescent Parkway, Suite 300
Greenwood Village, CO 80111

EXHIBIT B

SABELL METROPOLITAN DISTRICT

Operations Fee Calculation

Operations Fees

Sabell

Years 1-5 Through Build-out (2020-2024, Amounts are total for the 5 year period)

Estimated Revenue

Net Property Tax	\$	138,610	Note 1
Specific Ownership Tax @ 6% of Estimated Property Taxes	\$	8,317	
Estimated Total Revenue	\$	146,927	

Estimated Expenditures

Administrative Expenditures	\$	200,000	Note 2
Operations Expenditures	\$	300,000	Note 2
Estimated Total Expenditures	\$	500,000	

Estimated Operations Shortfall Years 1-5 \$ (353,073)

Operations Fees

\$360/year/unit \$ 243,000 To cover shortfall and maintain operating reserve
(Calculated annually from 2020-2024 based on build-out)

Transfer Fees

\$600/unit \$ 159,600 To cover shortfall and maintain operating reserve

Year 6 and forward after build-out (2025 and beyond, Annual amounts)

Estimated Revenue

Estimated Market Value at Build Out	\$	128,675,000	Note 3
Assessment %		7.15%	
Assessed Value		9,200,263	
Mill Levy		10.000	
Gross Property Taxes		92,003	

Less: Treasurer's Fee & Uncollected Taxes (1,840)

Net Property Tax \$ 90,163

Specific Ownership Tax @ 6% of Estimated Property Taxes \$ 5,410

Estimated Total Revenue \$ 95,572

Estimated Expenditures

Administrative Expenditures	\$	70,000	Note 2
Operations Expenditures	\$	120,000	Note 2
Estimated Total Expenditures	\$	190,000	

Estimated Annual Operations Shortfall \$ (94,428) Note 4

Operations Fees

\$360/year/unit \$ 95,760 To cover shortfall and maintain operating reserve

Note 1:

Net O&M Property taxes for years 1-5 (2020-2024) estimated based on preliminary AV for 2020 of \$286, estimated 2021 AV of \$0, estimated 2022 AV of \$1,106,350, estimated 2023 AV of \$4,626,500, and estimated 2024 AV of \$8,411,009

Note 2:

Administrative expenditures include such items as accounting, audit, legal and insurance. Operations expenditures include such items as covenant enforcement, design review, district management, utilities, repairs and maintenance, snow removal and trash removal

Note 3 :

Estimated based on 57 2 Story SFD at \$600,000/unit, 145 3-Story TH at \$475,000/unit, and 64 Small TH at \$400,000/unit

Note 4:

It is anticipated that future increases in annual expenditures will be covered by increases in revenue generated by the mill levy as assessed valuation increases.

EXHIBIT C

SABELL METROPOLITAN DISTRICT

District Boundaries

SABELL METROPOLITAN DISTRICT:

SHEET 1 OF 2

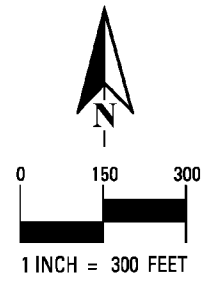
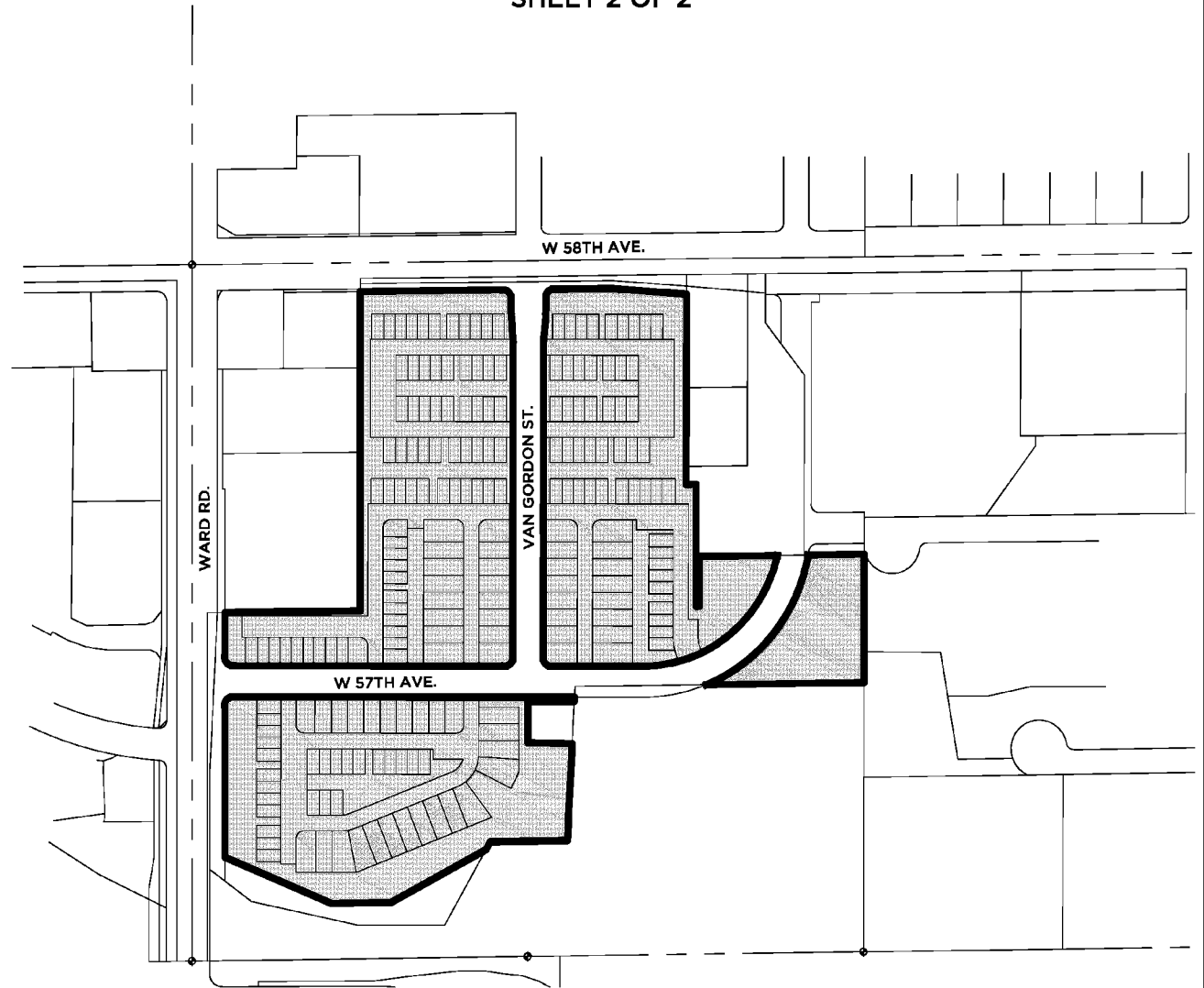
NOVEMBER 18, 2019

LOTS 1-86 BLOCK 1, LOTS 1-66 BLOCK 2, LOTS 1-50 BLOCK 3, TRACT A BLOCK 1, TRACT E BLOCK 1, TRACT F BLOCK 1, TRACT G BLOCK 1, TRACT K BLOCK 1, TRACT M BLOCK 1, TRACT B BLOCK 2, TRACT H BLOCK 2, TRACT L BLOCK 2, TRACT N BLOCK 2, TRACT O BLOCK 2, TRACT R BLOCK 2, TRACT C BLOCK 3, TRACT D BLOCK 3, TRACT I BLOCK 3, TRACT P BLOCK 3

SABELL SUBDIVISION, A SUBDIVISION RECORDED AT RECEPTION NUMBER 2019046492 AND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO.

SABELL METROPOLITAN DISTRICT

SHEET 2 OF 2



TITLE:
SABELL METROPOLITAN DISTRICT

LOCATION:
A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8,
TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

SCALE: 1"=300'	DATE: 11-18-19	PROJECT NO: 0009-1615	AREA:	PATH: J:\0009\1615\SURVEY\EXHIBITS\DISTRICT BOUNDARIES\SABELL_DISTRICT_OVERALL_EXHIBIT.DWG
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